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MULTI-CLUB OWNERSHIP IN FOOTBALL. A SET OF RULES TO GOVERN THEM ALL

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I. Abstract

Multi-Club Ownership in football has emerged as a prominent phenomenon in recent years, altering the traditional structure of football club ownership and management. This phenomenon is close to becoming the most relevant trend in the sport for the upcoming years, especially considering that it is an evolution of the already prohibited third-party ownership and investment which involved the players.

In addition, the legal framework of multi-club ownership is dispersed and outdated. There is no harmonious nor common standard among the football confederations that have established rules on multi-club ownership considering that it is a threat to integrity. Apart from it, multi-club ownership is also seen as a source of competitive advantages such as player development or major scouting networks. For the detractors, multi-club ownership is the tool that will increase the existing gap between clubs.

Finally, considering that FIFA has started to study how they could regulate the issue there are several rules which could be implemented to ensure that a regulated multi-club ownership is beneficial for the football community.

Resumen

La multipropiedad de clubes en el fútbol ha surgido como un fenómeno destacado en los últimos años, alterando la estructura tradicional de propiedad y gestión de los clubes de fútbol. Este fenómeno está a punto de convertirse en la tendencia más relevante de este deporte en los próximos años, sobre todo si se tiene en cuenta que es una evolución de la ya prohibida *third party ownership* e *investment* de la que eran objeto los jugadores.

Además, el marco jurídico de la multipropiedad de clubes es disperso y obsoleto. No existe una norma harmonizada ni común entre las confederaciones de fútbol que han establecido normas sobre la multipropiedad de clubes, considerando que es una amenaza para la integridad del deporte. Aparte de ello, la multipropiedad de clubes también se considera una fuente de ventajas competitivas, como el desarrollo de jugadores o las grandes redes de ojeadores. Para los detractores, la multipropiedad de clubes es la herramienta que aumentará la brecha existente entre los clubes.

Por último, teniendo en cuenta que la FIFA ha empezado a estudiar la forma de regular esta cuestión, existen varias normas que podrían aplicarse para garantizar que una multipropiedad de clubes regulada sea beneficiosa para la comunidad futbolística.

Keywords

Multi-club ownership; club governance; ownership of clubs; FIFA football regulatory.

II. Introduction. The status of the football industry today.

Mr. William 'Bill' Shankly OBE is the author of a well-known phrase in football "At a football club, there's a holy trinity – the players, the manager and the supporters. Directors don't come into it. They are only there to sign the checks.". If Mr. Shankly would still be alive the phrase would be very different. And this statement is increasingly important in the football family today, because in recent years the shifts in the football industry have been shaping an industry that does not only receive the pressure of performance from the fans but also as a result of this professionalization process now is looking towards the paramount importance of investors who are willing gain a return on their investments in the football industry.

Sports in general and football in particular, are facing a new era where investments are booming as a result of several factors which are converting football from a non-profitable industry into a profitable one (World Football Summit & SPSG Consulting, 2022). Europe is by far the biggest market of the sport, and the top-flight countries are considered the Top-5 leagues. Over the last season, the champions of these domestic leagues made over €250 million in revenues with the highest performer in terms of revenues being Manchester City earning a total €731 million (Ace Advisory Zrt, 2023), and the aggregate squad value of the five champions is well over €4,893 million (Id.).

The winners of each domestic league are just an example of how successful and economically powerful football is in Europe, but beyond the Old Continent, many other teams also take part in tournaments that benefit from the economic boom of football. A major indicator of this is the revenue each league is generating for broadcasting rights. The Premier League has sat for the last decades as the highest commercialized in terms of broadcasting rights, the price paid by the broadcasters is still at a high level, amounting to a total €3,488 million (Deloitte Sports Business Group, 2023), whilst revenue of matchday totaled £763 million (*Id.*) over the complete 2021/2022, exemplifying the recovery from the pandemic.

The COVID-19 pandemic crisis shocked the world and football clubs were no different as nobody was ready for such a calamity. It has been calculated that football suffered a loss of €12.000 million in generated revenue (Pérez, 2021) as a result of the pandemic. Despite this, football is in the process of full recovery, and proof of that is that the FIFA 2019-2022, which considers the whole period of the COVID pandemic, exceeded the budgeted profits (FIFA, 2022b). Of course, the reality of FIFA is different from that of the clubs competing in the domestic league. Even though clubs are more reluctant to spend more money on transfers (Deloitte Sports Business Group, 2023), there is an existing "wave of investment into global football" (*Ibid*, p.2).

A plethora of investors are seeing football as a new industry in which to invest. Some examples of it are private equity funds or sovereign funds (Lenarduzzi, 2021a; Deloitte Sports Business Group, 2023). A clear example of the involvement of private equity firms in football is the agreement between La Liga and the venture capital CVC by means of which clubs would sell a percentage of the future value of the broadcasting rights, in exchange for obtaining that money as a source of liquidity which should be invested in football. Moreover, CVC isn't putting all the eggs into the basket of football, considering they have also bought a 14% of the rugby Six Nations Championship (Lenarduzzi, 2021a). Even clubs themselves are coming up with deals: Real Madrid (2022) signed a deal with Sixth Street Partners and Legends valued at €316 million in exchange for the exploitation of the commercial partnerships of the new Real Madrid Stadium. In this case, Real Madrid would provide the facility, Legends the expertise on the commercial insights and, Sixth Street the funding for the project.

On the other side, sovereign funds are making a strong effort to make their way into sports. In the case of football, many Arab countries have bought clubs through their sovereign funds: Paris Saint-Germain by the Qatari sovereign fund, or Newcastle by a Saudi Arabia sovereign fund. Furthermore, this last country, Saudi Arabia has recently shifted the ownership of four clubs from government hands into a sovereign fund (Noble, 2023), this means that these Arab clubs are now corporations. Furthermore, golf faced a big governance problem following the appearance of LIV funded by the Arab sovereign fund to compete with the PGA Tour and European Tour. Finally, a settlement was reached recently to join both parties into one global entity with big funding from the Arab sovereign fund (PGATour, 2023).

Football has two main actors: players and clubs. These two have value and have been treated as an asset. Whereas investing in players has already been prohibited – the so-called Third-Party Ownership- and will be explained in the next chapter; the investment in clubs is a direct consequence of the conversion of clubs from associations to proper corporations (Lenarduzzi, 2021a).

III. Historical Analysis: Third Party Ownership (TPO) and Third Party Influence (TPI).

During the late 2000s and early 2010s following the important economic, social, and financial crisis that shocked the world, South American and European clubs searched for new forms of financing, to generate more revenue to soften the impact of this global scenario. One of these new forms was converting the players into tradable assets. New investors appeared in the football landscape with the so-called third-party ownership agreements, defined by Lindholm (2016) as:

> a football club, by merit of its employment contract with a player, owns one hundred percent of the financial rights to any transfer fees that another club will pay if the player is transferred during the contract period: the club's economic rights to the player. TPO allows the club to capitalize on that future transfer fee early by assigning a share of it to a third party. (Lindholm, 2016, p.4)

The basis of these agreements is that when signing an employment contract between a player and a club, the player's rights can be divided into the (i) federative rights, and his own (ii) economic rights. The federative rights are:

> the rights binding a professional player to a club by virtue of an employment contract which is duly registered rights before the respective national association. Therefore, before the respective national association. Therefore, a players' federative rights allow them to participate on behalf of the federative rights allow them to participate on behalf of the sports entity and to represent this entity and to represent this entity in competitions. (KPMG Asesores, 2013, p.11)

FIFA regulates the federative rights through the process of registration of a player within a National Association, as such the FIFA Regulations on the Status and Transfer of Players (RSTP) establishes under Article 5.3: "A player may only be registered with one club at a time" (FIFA, 2023c, p. 18), therefore it is prohibited that two clubs own the federative rights of the same player. A player cannot exercise his right to play for a club when he is registered with another one, with the sole exception of the trial.

The economic rights are defined by Mr. De Dios Crespo (2014) and Mr. De Marco (2020) as the value of the future transfer of the player. When signing an employment contract with a player, the club obtains federative and economic rights from the player. Therefore, the club is free to use them at their own will. And back in the days, the economic rights of a player[1] could be resold as a commercial asset that would generate a future return. Therefore, clubs sought the opportunity of selling the economic rights to third parties "such as investment funds, companies, sports agencies, agents and/or private investors" (KPMG Asesores, 2013, p.5). As the third-party agreement was linked to the employment contract of the player with the club, if the player is sold during the term of the contract, that third party would be entitled to the percentage agreed in the third-party agreement. In the event the player left the club as a free agent or the player leaves the club with a lower transfer fee, depending on the contract, the third-party most likely would have included a clause with a minimum return (Lindholm, 2016).

Following this idea, the general doctrine (Lindholm, 2016; KPMG Asesores, 2013) agrees that three different types of TPO were created: Investment TPO, by means of which the third-party aids in financing the transfer of a player from a club to another club, and financing TPO, where a player belongs a club and part of the economic rights are sold, to obtain liquidity, or even to pay the remaining transfer fee to the previous club. The third type is recruitment TPO, used in South America where "the funds raised from the third party goes into recruiting a player that is not yet under contract with the club" (Lindholm, 2016, p. 5). As a result of this, the employment

[1] Normally a percentage between 10%-50% (KPMG Asesores, 2013) was agreed upon by the club and the third party.

relationship between the player and the club introduced a new actor, the third party. Clubs were incentivized to use the TPO scheme because it not only provided a new form of short-term liquidity to engage in other transfers, but it also allowed them to engage with new players of a higher quality for the squad (KPMG Asesores, 2013).

In the very beginning, several disputes over the legality of selling the economic rights to another club or another party were brought in front of CAS, in cases 2004/A/635 and 2004/A/701 established that the co-existence of two owners to the economic rights of a player was not contrary to the existing FIFA regulations. As such, CAS confirmed this idea of two separate elements: the federative rights, which can in no way be granted to two clubs; and the economic rights, which can certainly be distributed as the parties wish, especially when there is consent of the player to be involved in such deal (CAS 2005a; 2005b).

TPO was seen as positive for clubs as it helped to diversify risks and gave the clubs more money, which means short-term liquidity (De Dios Crespo, 2014), and in a period of economic crisis and uncertainty, this presented itself as a lifeboat for many clubs failing to obtain financial profits.

But at the same time, it was also a tool that many others started to fear and concern due to several reasons. Firstly, it was seen as a form of slavery by football officials, *inter alia*, Mr. Michel Platini, at the time President of the European football confederation, UEFA (Reuters, 2015) because it transformed the player into an asset whose value fluctuates, as a stock price. Secondly, it was also considered to be a "dubious financing technique" (van Maren et al., 2016, p. 234) because it allowed clubs to avoid the different financial sustainability mechanisms set out by confederations or national leagues which were specifically set to control overspending (De Marco, N., Motta, M., Morais, R., & Awad, R., 2022). In addition to this, the emergence of stakeholders out of the football family was seen as a way of letting money move away from football as opposed to letting the money stay inside the football ecosystem (*Ibid*).

The major concern was raised over the transparency of the people behind TPO. Firstly, because it was viewed as a menace to the integrity of the player because if the player was owned by a person other than the Club, he should be easily tempted to obey any instruction from this third party rather with greater interest than the instructions of the Club. In the words of FIFA (2020):

> The proliferation of the aforementioned businesses in the world of football was detrimental in terms of, among others, the autonomy of clubs to determine their policies and their independence in the decision- making process regarding the recruitment and transfer of players.
> The prevailing interests of third-party investors seemed at odds with the principle of contractual stability, which has been recognised as being of paramount importance in football from the perspective of clubs, players and the public in general.
> Contractual relations between players and clubs must be governed by a regulatory system that is tailored to the specific needs of football, strikes the right balance between the respective interests of players and clubs and preserves the regularity and proper functioning of sporting competition. (FIFA, 2020, p. 9)

This was clearly spotted when several cases came into light, inter alia, the Mascherano and Tevez case. Both players signed for West Ham United in 2006 for a suspiciously low transfer fee. When the Premier League decided to investigate further the case, it was soon discovered that the club had sold the economic rights of the players to two companies who had the ultimate right to decide on the future transfer of the player. The Premier League rules back then already contained a prohibition on third-party influence which was used to ultimately sanction West Ham United after discovering all the deals.

The reaction to this case and to the ones that followed was the total ban from the world's football governing body: FIFA, with the strong political support of UEFA and other institutional stakeholders and via the implementation by FIFA of Article 18 bis of the FIFA RSTP, which currently is established as follows:

> 1. No club shall enter into a contract which enables the counter club/counter clubs, and vice versa, or any third party to acquire the ability to influence in employment and transfer- related matters its independence, its policies or the performance of its teams.
> 2. The FIFA Disciplinary Committee may impose disciplinary measures on clubs that do not observe the obligations set out in this article. (FIFA, 2023c, p.34)

In the words of Pastore (2018) the provision "was too general to be effective" (p.31), and therefore resulted in an unsuccessful attempt to regulate such aspect. It was in 2015, that FIFA introduced Article 18 ter, on Third-party ownership of players' economic rights establishing that – as it currently stands:

> No club or player shall enter into an agreement with a third party whereby a third party is being entitled to participate, either in full or in part, in compensation payable in relation to the future transfer of a player from one club to another, or is being assigned any rights in relation to a future transfer or transfer compensation. (FIFA, 2023c, p.34)

This novelty regulation has developed and is currently in force. Its wideness allows for multiple interpretations, but throughout the years FIFA and the cases have shaped the situation regarding TPO. That is not the purpose of this dissertation considering that an entire dissertation could be done on it, but just to point out some relevant features of the regulations.

Throughout the years, who is and who is not a third party has settled. Most importantly concerning to the players. *Ab initio*, the definition granted in the FIFA RSTP as to who was a third party did not expressly exclude players – even though it was assumed *de facto*, it only did so to exclude the two clubs involved in a transfer agreement. In 2019, FIFA had to clarify that players were not a third party to their own transfer agreement because several cases were brought alleging the player was a form third party influence in his own contract (De Marco, 2020). The exclusion of the consideration of the player as a third party is a beneficial tool for him – the player- with regards to his employment relationship. As De Marco (2020) points out: the player can be entitled to a future right of his transfer meaning that he will be encouraged to have greater performances to raise his value, which at the end of the day means more he may receive from the future value of the transfer. This allows promising players who can't opt for higher salaries or clubs with fewer resources can offer a high salary demanding player this future stake as an incentive to sign for the club for a lower fixed salary.

In conclusion, following this ban, the message from the governing institutions to external investors of football was sound and clear: "You can't invest in the player". Therefore, any investor who thought on buying a player in exchange for the future value was dissuaded from it. Instead, a new solution was found by investors: if you can't buy the player, then switch to the clubs (Roitman & Poli, 2020). It is more than clear that a club's price is higher to that of a player, but that seems the way in the football industry, which was accepted by the institutions.

IV. What is Multi-Club Ownership? Why Multi-Club Ownership? Who is behind Multi-Club Ownership?

1. The status of clubs. Developing into Multi-Club Ownership

Football clubs have generally been the key element of the sport. Considering football is a team sport, nobody can move around without the club. As such, they play the most pivotal role in the footballing family. According to the FIFA Statutes (2022), a club is "*a member of an association (that is a member association of FIFA) or a member of a league recognised by a member association that enters at least one team in a competition"* (p. 9). This vague FIFA definition does not provide any reasonable meaning other than that a club needs to be a member of a member association to compete in organized football. Hence, we shall resort to the dictionary definition of 'club' "1. an organization for people who share an interest or do a sport or activity together […] 3. a professional sports organization that includes the players, managers, owners and members" (Oxford, n.d). This definition provides us with a better notion. Firstly, an "organization" therefore an entity with the separate and individual legal form it wants to receive. Secondly, with the purpose "for people who share an interest", in the case of football, the common interest is the sport of football, and in each club, in particular, the members of the club may share the values or the eagerness of victory and success of the club. The second definition raises the level, as it once again mentions the idea of "professional organization" and refers to the members, or in business terms stakeholders, of the club. All in all, a football club is nothing other than an organization, and or company, that develops its activity to play football, whose ultimate aim is victory in a match. In addition, the value of a club and what a club means in the current society is perfectly worded by Mr. De Dios Crespo:

> Football clubs are unique assets in the sense that they offer their owners a lot of visibility and the possibility to attract large audiences. Thus, football clubs have the potential to have a significant impact when they function as communication channels and media platforms, not only with regard to conveying information about the team but also with regard to messages from commercial partners and sponsors. (2020, p.143)

Considering the above, a football club can adopt multiple legal forms. Pondering there are 211 member associations in FIFA, we can make the analogy that there are 211 different countries with 211 different legislations on what is the legal form of a club; who can own a club or how can a club operate. This means that a club is created and adopts the legal form complying with the requisites the national law establishes, as any other entity: private corporation, association, or organization, would be required to do.

Nonetheless, it can be easily spotted the different types of clubs that are predominant in the football industry, or at least, in the key players. There are up to three (Rohde & Breuer, 2017), these being: firstly, fan-owned as the original figure of clubs where the owners are the individual members who share an equal part of the ownership of the club, secondly, privately owned which is, in some way close to a corporation, considering that the ownership is divided into shares and they can be owned by individuals, or even by corporations. Inside this category, Rohde and Breuer (2017) make a distinction between local and foreign investors. Finally, the third category is public investors, those clubs which are publicly listed on the stock exchange. For the sole purposes of clarity, the analysis that will be done in the following lines and chapters will focus mostly on those clubs that are either privately owned or publicly listed, because they share the common characteristic that the owner can change. On the contrary, it is very hard to think that a fan-owned clubs' ownership can be bought because each member holds an equal right to vote and therefore, the control of the club (Lenarduzzi, 2021a).

The football industry has become a very advanced internationalized and commercialized market (Pastore, 2018) for investors. It was once the player the assets investors sought to capture – as it has been seen in the previous chapter – but the institutions no longer allow it. Therefore, they have turned to clubs because "football has transformed associations to corporations over recent decades" (Lenarduzzi, 2021a). Consequently, clubs are the necessary tools for investors. And investors tend to a take limited risk by diversifying their investments, which in football translates into having stakes in different clubs and this is becoming a trend "increasingly common over the last twenty years with a dramatic increase in the last five years" (Pastore, 2017) in the football industry, called Multi-Club Ownership. This trend has also been recognized as such by the football players' trade union: FIFPro (2021). Even this trend doesn't understand gender as both male and now, female clubs are also involved in it (Deloitte Sports Business Group, 2023). As Deloitte points out, the trend of investors diversifying risk is a common objective for all those who are willing to venture their money, into football particularly and, into the sport, in general:

> As the next wave of buyers evolves, so too will the portfolio strategies adopted by investors. We expect to see a broadening of the portfolio approach that incorporates additional sports, geographies, and complimentary businesses. Investors will look to strategically invest in businesses that provide synergistic growth, with sports assets acting as the catalyst. When broadening a portfolio in this manner, it is critical for investors to form a long-term strategy that optimises the portfolio's growth opportunity in each market. A clear understanding of the global sports market along with a strong understanding of the nuances in local markets is necessary for investors to support responsible investments, and ultimately generate higher returns. (Deloitte Sports Business Group, 2023b, p. 4)

There is no established definition for Multi-Club Ownership (also referred to later as MCO)[2]. Pastore (2017), Sternheimer and Larabi (2020) define it as "the situation where two or more football clubs are owned by the same entity". This definition fails to consider that solely an entity can constitute an MCO, forgetting about the fact that an individual can also be the owner of two, or more, football clubs. The European confederation has also elaborated on the definition of Multi-Club Ownership which defined it back in 2016 as:

> Private persons having control and/or a decisive influence over more than one football club, entities ("related entities") having control and/or a decisive influence over more than one football club, and clubs having control and/or a decisive influence over other football clubs. (UEFA Club Licensing Benchmarking Report: Financial Year 2016, p.24)

The definition is quite technical but does consider the possibility of individual persons or companies or even clubs owning more than one club. This allows us to set a complete framework for the purposes of defining MCO, even though the specifics of the definition will be addressed *ad infra* when analyzing the existing UEFA regulations.

When comparing MCO to what it imports to the football industry from the business of any other market Pastore (2018) compares it to the following:

> The practice of a larger company acquiring or merging with smaller companies in order to benefit from broader networks and expertise is very common in every market in which synergies play an important role in companies' growth (p. 37)

Indeed, from a purely corporate law point of view, MCO is quite close to being a merger and acquisition deal for football.

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[2] For the avoidance of doubt, and for the purpose of clarity towards the reader ahead of the following chapters, when speaking about MCO they can also be referred to as MCO conglomerates.

2. Who is behind the main Multi-Club Ownership conglomerates?

MCO has existed for the past twenty years but has acquired greater relevance over the past quinquennium. The first cases are found to be in the 90s decade, with the owner of Parmalat, Mr. Calisto Tanzi, buying Parma AC (Italy), Palmeiras (Brazil), and Deportivo Italia (Venezuela). And the ENIC investments in several European clubs gave birth to the case with the same name and that obliged UEFA to introduce its own set of rules on MCO (Pastore, 2018; Menary, 2021).

Obtaining a total calculation of how many MCO conglomerates exist today is quite hard, statistics change daily, and each source uses a different criterion. In 2021, Menary (2021) spotted over 60 MCO. The same author (Menary, 2023a) calculates that in 2023 there are 93 MCO conglomerates. Last year's Deloitte (2022) Annual Review of Finance in Football sets there are over 70 MCOs, double the amount of five years ago. Agini (2023), a reporter for the Financial Times, in March 2023 that "By the end of last year, more than 180 teams globally were part of a multi-club group at the end of 2022". Also quite recently, the CIES Sports Intelligence posted a tweet on the clubs involved in MCO, according to it there are "at least 254 clubs currently involved in a #MultiClubOwnership structure": 154 from UEFA, 38 from CONCACAF, 20 from AFC, 14 from CONMEBOL and 8 from CAF. In addition, Menary (2023a) pointed out that at least four groups own already seven or more clubs.

2.1. Main conglomerates

Multiple actors have appeared in the MCO over the past years. It is worth noting some of the currently existing ones. When referring to MCO conglomerate it can receive both: a commercial name or the group may receive the name of the investor.

2.1.1. The City Football Group (The CFG)

Since the acquisition in 2008 by Sheikh Mansour bin Zayed Al Nahyan, Manchester City (England) has faced a complete change in its course of action. The Blue Mancunian club now seats at the top of the Deloitte Money Football League 2023, a report that measures the financial performance of the top European clubs. Over the past decade, Manchester City has been the flagship club of the City Football Group, a holding company of football clubs. As of 2023, the City Football Group owns, apart from Manchester City the following clubs all around the world: New York City (United States), Melbourne City (Australia), Yokohama F. Marinos (Japan), Montevideo City Torque (Uruguay), Girona FC (Spain), Sichuan Jiuniu (China), Mumbai City FC (India), Lommel SK (Belgium), Esperance Sportive Troyes Aue Champagne – ESTAC – (France), Palermo FC (Italy), Bahia (Brazil); and the partnership with Club Bolivar (Bolivia). Summed up, the CFG a conglomerate that owns thirteen clubs in all the continents in the world.

The group is owned by Newton Investment and Development LLC, "a company registered in Abu Dhabi and also wholly owned by His Highness Sheikh Mansour bin Zayed Al Nahyan" (The City Football Group, n.d) and is therefore considered the Abu-Dhabi MCO (Saleh, 2022). The Group is considered "by far the biggest -and most successful in terms of silverware if not necessarily revenue" (Sheldon and Whitehead, 2022).

In terms of business, The CFG signed Mr. Ferran Soriano to hold the position of CEO and develop the group in terms of strategy. The ultimate goal of the Group is "to build the 'first truly global football organization" (Ahmed, 2017). Mr. Soriano is considered to be the mastermind behind the idea of the 'Disneyfication of football that the City Group is trying to implement. This means that entertainment can be created all around the world, in different languages, and different places making each one unique (MacInnes, 2017).

2.1.2. Red Bull

The Austrian drink company Red Bull "uses football clubs as part of its innovative marketing strategy to promote its brand" (Pastore, 2018, p. 39). But this strategy does not focus exclusively on football clubs, but rather on sports in general, as the Red Bull company is the owner of two Formula One teams, one ice hockey team in Germany and Austria, and, even, a venue: the Red Bull Arena in New York (Moya López & Sussi de Oliveira, 2022). In football they also present a conglomerate of clubs: FC Red Bull Salzburg (Austria), New York Red Bulls (United States), Red Bull Brasil (Brazil), and RB Leipzig (Germany).

All the clubs that are part of this conglomerate share the same marketing strategy. When watching Red Bull teams, one can easily spot that the corporate image, colors – navy blue, white, and red-, logo, shirts, and even the stadium 'naming' are the same (Pastore, 2018). An anecdote in this regard is that in Germany Red Bull wasn't allowed to give the club the commercial name, hence it was renamed as Rasenball, according to the Collins translator (n.d) the word 'rasen' means "lawn".

Another core element in the relationship between the Red Bull-owned clubs has been the constant transfer of promising players from clubs (Saleh, 2022): especially between FC Red Bull Salzburg and RB Leipzig. As it will further develop ad infra, the sharing of players is an element seen as an advantage of MCO. When the team from Leipzig got promoted to the Bundesliga, German First Division, during the first years many players switched from the Salzburg-based club (Pastore 2018; KPMG Advisory, 2020).

2.1.3. 777 Partners

777 is a Miami-based hedge fund that amongst other activities has a special interest in football, over the past year "this firm has been on a spending spree" (Saleh, 2022). As of 2023, 777 owns the following stakes, as they do not solely own total properties of clubs: 5% of Sevilla FC (Spain), 70% Melbourne Victory FC (Australia), 99,9% of Genoa FC (Italy), 100% Standard Liége (Belgium), 70% Club de Regatas Vasco da Gama (Brazil) and 100% Red Star Belgrade (Serbia) (Palco23, 2023). The purpose is no other than that of a hedge fund: finding undervalued assets in the football market, *inter alia,* clubs (Saleh, 2022).

2.1.4. Pozzo Family

The Pozzo family MCO is one of the most established conglomerates in football. The first club takeover by the Italian family dates back to 1986 when Udinese was bought, since then Giampaolo Pozzo has been serving as President of the club, thus becoming "the longest-serving president of any top-flight club in Europe's big five leagues. Under his tenure, Udinese have spent 29 of the 35 seasons with him in Serie A" (Saleh, 2022).

In 2009, Granada FC was acquired. The club then was a mid-table team in the Spanish third division and was sold to a Chinese investor in 2016, when the club had settled for 5 years in the Spanish First Division. In 2012, the Pozzo purchased Watford FC, a club that is still owned by the Italians. The Pozzo family considers themselves as "pioneers" in terms of the development of MCO (Saaleh, 2022).

2.1.5. RedBird Capital Partners

Another American private equity fund that is making its spot in the football industry is the RedBird Capital Partners. Last summer this group bought AC Milan (Italy) from Elliott Group. In addition, the club also holds in its portfolio stakes in Toulouse (France). Furthermore, it is also the owner of Fenway Sports Group, which, in turn, is the owner of the 10% ownership of Liverpool FC (England).

The director of RedBird views it as “a good way to create a one size fits all model that creates value for the company’s assets” (Saleh, 2022). Meaning that each team will follow the same strategy and exploit similar resources.

RedBird could be the next group that gets under the scrutiny of UEFA ahead of the 2023/2024 season. Toulouse has qualified for the UEFA Europa League as champions of the French Coupe de France whereas AC Milan has qualified for the UEFA Champions League competition (Onrubia, 2023). Undoubtedly, the two clubs have qualified for different UEFA competitions but there is a risk when considering that both teams face each other considering that the third qualified in the Champions League group stage qualified for the knockout rounds of the UEFA Europa League.

2.1.6. Qatar Sports Investment

The Qatari sovereign fund is well-known for being the proprietor of Paris Saint-Germain (France) since 2011. Even though throughout the years the sole focus was the French club, in 2022 QSI bought a 20% stake in SC Braga (France) and it seems that the portfolio is likely to be increased soon as several talks with several Premier League clubs.

2.1.7. Atletico de Madrid model

The case of Atletico de Madrid is quite different from many of the already mentioned. In this case, it isn’t the owner of the club who owns a stake in many other clubs, but rather the club itself that owns other clubs around the globe. These are the cases of Atlético Ottawa (Canada) ad Atletico San Luis (México) where a partnership exists.

2.1.8. A note on American investors

On a separate note and considering the growing number of American investors appearing in football, it must be pointed out that, in most cases, they are not unknown investors to the sports world. Some of them have already made a first investment by buying clubs in other sports and are now planning their move to football. They are building their investment portfolio as a multi-sport investment, which means buying clubs over a wide range of sports, and inside the same sports, some do have multi-club ownership situations.

Stanley Kroenke is the owner of the holding company Kroenke Sports & Entertainment which holds the ownership of NFL Team Los Angeles Rams, NBA Team Denver Nuggets, NHL Team Colorado Avalanche. As it is seen, all of them are in different sports. They also own two football clubs: Colorado Rapids (MLS – United States) and Arsenal F.C (Premier League – England).

Todd Boehly is known in Europe as the successor of Roman Abramovic after the record-breaking deal for Chelsea FC. Before closing that agreement, Mr. Boehly was also the owner of the Los Angeles Dodgers (MLB) and a minority shareholder -27%- of the Los Angeles Lakers (NBA). It is reported that Mr. Boehly’s company, BlueCo, has bought the majority stake in Racing Club de Strasbourg (France) (Racing Club de Strasbourg, 2023).

John Textor is the owner of the Eagles Football Group, a holding company that has in its portfolio stakes in: FC Florida (United States), 90% of Botafogo (Brazil), 40% of Crystal Palace (England), 80% Olympique Lyonnais (France) 80% of RWD Molenbeek (Belgium). At the same time, the purchase of Olympique Lyon included the team OL Reign which competes in the United States National Women's Soccer League. Unlike the others. he has no prior experience in the ownership of clubs in other sports.

David Blitzer is the owner of HB Sports & Entertainment where he holds ownership over the NBA team Philadelphia 76ers, and the NHL team New Jersey Devils. On the other hand, he is the owner of a specific consortium Football Global Holdings of football clubs AD Alcorcón (Spain), Ado Den Haag (Netherlands), FC Augsburg (Germany), Estoril Praia (Portugal) SK Beveren (Belgium), Brondy IF (Denmark) and a minority shareholder of Crystal Palace (England). This consortium is also property, amongst others, by Jahm Nafaji, minority owner of the Phoenix Suns (NBA) and of McLaren Racing (Formula One).

49ers Enterprises is the parent company owner of the San Francisco 49ers (NFL). Additionally, over the past years, this same company has been the minority shareholder – 44%- of Leeds United FC (England). Nonetheless, recently it was confirmed that the majority shareholder, Mr. Andrea Radrizzani, had decided to sell his majority stake to 49ers Enterprises insofar as the American company becomes the majority shareholder of Leeds. Furthermore, Mr. Radrizzani is the owner of Unione Calcio Sampdoria (Italy).

2.1.9. Other investors

Multiple other individuals have also started to form MCO conglomerates that are known for the name of the person behind them rather than because of the name of the company itself. Here is a list of the most resembled: Mr. Peter Lim is the owner of Valencia CF (Spain) and Salford City (England) alongside members of the Manchester United Class of 92. Mr. Joseph Ougharlian is the owner of RC Lens (France), Millonarios (Colombia), and Padova (Italy). Mr. Tony Bloom is the owner of Brighton and Hove Albion (England) and Union Saint Gilloise (Belgium)

3. Advantages and disadvantages of Multi-Club Ownership

As a novel business model, MCO is seen as the ideal "that may dominate the next chapter of football" (KPMG Advisory, 2020). This is due to the fact that the advantages are considered to outweigh the disadvantages, as they will be explained in the following lines.

When considering the advantages there is a thin line that may be drawn to divide these can be divided into business-related and sporting-related. This division is inherent as "MCO is thus a business model that seeks to combine economic and sporting interests." (Dumond, Hafner & Facchinetti, 2020, p.81)

When approaching the business-related advantages of MCO the first idea that comes out is the diversification of risk (KPMG Advisory, 2020), and this is something very appetizing for any investor. In football results depend on the unpredictability of the game, which means that even the worst team in the world can defeat the best team ever. As a result, teams do have good-performing seasons and bad-performing seasons. Owning two or more clubs obeys the saying that one must not put all the eggs into one basket thus, the bad season of one of the clubs owned may be balanced by the better result of the others. Diversification of the risk does not only refer to diversification of the sporting risk, it must be also considered as a way to diversify the financial risk (Geey, 2023; Demeulemeester, 2020).

Secondly, the ownership of multiple clubs grants greater options for the company in cutting expenses, obtaining economies of scale and sharing the know-how of the industry. This is clear to the point that resources can be shared, as for example in terms of scouting, as it will be addressed *ad infra*. The establishment of a company that controls several clubs may allow these to outsource some of their organizational processes into the parent company, rather than having that division in each of the clubs.

Thirdly, in an industry such as the sporting one, having a growing fanbase is key to success. Therefore, the ownership of multiple clubs, allows to internationalize the club, thus opening the door to new markets, and creating opportunities in the territories of the other owned clubs (Liang & Pastore, 2020). An example of this is a club from Italy part of an MCO with a club in Japan, the Italian club may take advantage of the knowledge of the Japanese market the Japanese club possess and will be able to penetrate easily the market.

Last but not least, marketing plays also a vital role in sports, especially in this industry where commercial interests are at stake at all times. When it comes to the creation of marketing and, particularly sponsorship opportunities, the value of the total product is what matters. When a person is the owner of multiple clubs, he can jointly create a total value out of it, offering the supplier access to multiple markets, not just one (KPMG Advisory, 2020). This is something the City Football Group has understood and applied. Back in 2019, The CFG agreed to a 20-year deal with sports clothing manufacturer Puma. The sponsorship agreement reported the conglomerate £650 million in exchange for the supply of the kits of Manchester City, Melbourne FC, Girona, Atlético Torque, and Sichuan Jiuniu. The only team excluded from the deal was New York City because Major League Soccer provides the sporting manufacturer for the teams (McMahon, 2019). The main issue now is evaluating how should the CFG distribute all that money inflow. In this case, when analyzing the information that was published in the Manchester City financial reports, it could easily be calculated that 92% of the canon went to the Mancunian club, hence the remaining 8% was divided among the remaining clubs. Attributing such a high percentage of the 'cake' to one of the clubs could lead to believing that there is an intention to inflate the value and therefore circumvent the confederations' financial regulations (Laing & Pastore, 2020). But the underlying question is: is it fair to divide the result at the owner's will? Should it be divided equally?

The Red Bull group itself is a marketing tool. As it has already been mentioned all the idiosyncrasy of the teams is totally related to the image of the drinks. For example, the bull and the color pantone are completely the same.

In terms of sporting advantages, and closely related to some of the already mentioned, there is one that outstands the rest: talent scouting. The scouting of players is a task that every club assumes as part of the core business. At the end of the day, good scouting will not only find you the most promising player, but also, the right player for a position or with certain particular attributes. Sharing the scouting networks is a way of sharing resources but also helps reduce the cost and efficiency in seeking players for those clubs who tend to suffer in finding the appropriate player. Therefore, those will benefit and access the information provided by those major clubs.

Another sporting-related advantage is player development, which is the central advantage exploited by mostly every MCO conglomerate (Roitman & Poli, 2020). The path of a footballer from youth academy player to world star does not happen overnight. Many development stages involve the player having time on the pitch and this is not usually easy in the early stages. Therefore, a player needs on-pitch time to further develop his skills and mature enough to meet his full potential, and by 'transferring' him through the clubs of the same group, thus guaranteeing him minutes at a lower cost than a transfer from another external club. A question that might be raised in the future is to what extent are players allowed to move freely between the clubs owned by the same person. When answering a similar question, FIFPro has already discouraged the establishment of contractual clauses. According to the Football Benchmark, this is "the most obvious area where a chain of clubs can realize a competitive advantage" (KPMG Advisory, 2020). This is common practice amongst the conglomerates. For example, the Football Benchmark has counted that the "Pozzo family have completed over 50 transfers between themselves in the past decade" (KPMG Advisory, 2020).

Over the past years several clubs, not only those part of a MCO conglomerate, have signed multiple young promising players and then loaned them out year after year. In multiple cases, the same player was sent on consequent loans which are detrimental for his development (FIFA, 2023b). This added on to the idea that clubs taking part of a MCO conglomerate were easily loaning in and out players led FIFA to establish the existing cap on loans, established pursuant to Article 10 of the FIFA RSTP (FIFA, 2023c).

The main group exploiting the development of players through their own set of teams is the Red Bull group, and the best evidence is the example of Dayot Upamecano's professional career with the data provided by TransferMarkt (n.d). The French defender was bought in 2015 to play for FC Liefeing, RB Salzburg's youth team. The following season he was promoted to the first team, but during the winter break of the second season he was transferred to RassenBall Leipzig for a transfer fee of €18,5 million. The player was then transferred ahead of the 2021/2022 season to Bayern Munich for a €42,5 million transfer fee. Considering the initial cost – transfer fee- of €2,2 million, an easy calculation can be made resulting in a great profit for both Red Bull clubs involved. The underlying idea of this type of operation is summarized by Pastore as "by means of this network of clubs, players were first acquired at low cost, then loaned between 'sister clubs' and later sold at a premium price" (2018, p. 38).

But player development has also been used on the opposite perspective when signing a player from one of the teams and sending him priorly to another of the owned teams to have extra minutes of playing. This was the case of Frank Lampard who signed for New York City but was priorly loaned from the end of the Premier League season to the beginning of the MLS season to Manchester City; or David Villa who was sent to play to Melbourne City FC before joining New York City for the same reason.

It is worth mentioning that this idea of player development is also seen as a negative element in the long run. The sole idea of a club buying players and then solely transferring internally through the clubs owned may lead to the absurd creation of multiple player markets, instead of one sole player market. At the moment, there only existing rule to control this is the cap on loans, but as for the rest there is nothing regulated (Johnson, 2020).

All in all, the advantages of MCO can be resumed into the easier creation of synergies and optimization of resources between clubs (Roitman & Poli, 2020b). On the contrary, several disadvantages are mostly associated with sporting-related concerns and the fact that MCO could "contributes to the drastically growing gap in the football pyramid, as the richer clubs maximise their income and profits at the expense of the medium-sized and small clubs" (Hagemann, 2020, p.149).

The major concern apropos of the appearance of MCO is the risk to the integrity of the game and the credibility of competitions (Pastore, 2018). As it will be addressed *ad infra*, preventing damage to the integrity of the game was the motivation of UEFA to implement its own set of rules on MCO. The fact of having two clubs owned by the same person facing each other could simply create an impression that the competition is rigged (UEFA Financial Sustainability & Research Division, 2023). This is the main threat to MCO because it does not only affect the clubs involved, but it also affects the entire game. The risk is visible: two clubs owned by the same person could be instructed to predetermine the result insofar as there is a benefit for one of the two.

Another point of criticism is that the centralization and the establishment of the same patterns across the clubs that are part of a conglomerate erase the sense of belonging of a club, what Mr. De Dios Crespo names 'Fan Alienation' (2020, p.144). This has been argued recently by the Crystal Palace fans, that during a match displayed a banner with the saying "Multi-Club Ownership. Stock market gambling. Textor, we don't trust you". Further fan demonstrations have taken place in Brøndy (Denmark) and Braga (Portugal) (Menary, 2023). This concern has much to do with the spirit and origins of a football club and its affinity, acceptance, and fraternity with the community it was born to represent. Furthermore, Hagemann (2020) establishes that the result an of MCO towards the fans is:

> Multi-club owners see clubs as a group of companies, creating new brands and changing club identities by adding them to their portfolio and, ultimately, their brand strategy. Suddenly, we are not football fans anymore, but customers. And in some of the worst cases, we lose our football club because the owners prefer to keep it a "closed shop" using its assets for the development of the group. (p.148)

Finally, in between an advantage or disadvantage of MCO is the idea of creating a model with parenting clubs (Menary, 2021). The conglomerates that adopt this idea are thought to have a major club – considered parent club – which is the main and most valuable asset of the owners. In turn, this club is the main priority and the most important of the project and therefore, most of the efforts will be directed at this one. Roitman & Poli (2020) consider this to be a "hierarchical structure, with a lead club at the top and the others across one or more subordinate positions" (p.104). This means that the other, feeder clubs will be left on a second line. For the parent club, this is seen as an advantage because it has at its disposal all the resources from the feeder clubs, i.e., players or staff; for the smaller, feeder clubs, it can also be an attraction to have the opportunity of receiving players of a higher profile from the parent club who need minutes and will be for sure have them in the feeder club (KPMG Advisory, 2020). All in all, for the player, a good performance in the feeder club will increase his opportunities at the parent club.

Nonetheless, this idea of parenting and feeder clubs is seen as a potential problem in the long run considering that the proliferation of MCO with this mindset could create two problems: firstly, an internal transfer market where the transfer of players only happens between the clubs owned by the same person, for a cheaper price than market value (UEFA Financial Sustainability & Research Division/UEFA Intelligence Centre, 2023); and secondly, it will create two types of clubs: parenting clubs, which will be the ones opting for the higher prizes and feeder clubs whose sole purpose will be to provide extra resources to the prior (Menary, 2021).

V. The regulation of Multi-Club Ownership in other sports

Multi-Club Ownership is a phenomenon that is hitting quite fast in football, but that also is raising concerns in many other sports. The approach towards its regulation must be examined *ad casu* per each sport. Some sports have rules on MCO established at the international federation level whilst others solely regulate them in the competition rules. It will be seen that within the same sport, some competitions do not prohibit but regulate the transactions of two clubs owned by the same entity, and in a different competition it's totally banned. The sports that will illustrate how they regulate MCO are basketball, rugby, and automobile racing– specifically Formula 1.

1. Basketball

The basketball sport is governed worldwide by the Federation International de Basketball (hereinafter referred to as FIBA). As well as in any other sports FIBA has the role of being the main regulatory body to set a global international regulatory framework. The main legal document is the FIBA General Statutes. Within the rules set forth, unlike FIFA, FIBA has not established any sort of limitation nor general rule on avoiding MCO. For this reason, it is relevant to analyze the regulations of the main two competitions which are not organized by an international federation but by the clubs themselves: NBA and Euroleague.

1.1.NBA.

Before analyzing the rules, a prior disclaimer must be made: the NBA is not affiliated to the USA Basketball, the national federation. This means that they are not bound by the FIBA rules, but rather there is a direct cooperation between FIBA and NBA directly where they establish the conditions that bind both parties.

Regarding the possibility of owning more than one franchise[3] NBA addressed this issue in the National Basketball Association Constitution and By-Laws (NBA, 2019). Indeed Article 3 of the cited regulations entitled "Conflicts of Interest" regulates on the following:

> (a) No Owner, or director, officer, manager, coach, employee, agent or representative of an Owner, shall (i) hold a position with, or directly or indirectly exercise control or any management authority over any other Member or Membership, or (ii) hold any direct or indirect financial interest in any other Member or Membership, unless, in the case of this clause (ii), (x) the facts in connection with such financial interest are disclosed in detail in an application provided to the Commissioner by the applicable Owner and, in addition to any approvals that may be required under Article 5, such interest is expressly approved for purposes of this Article 3 in accordance with the approval procedures set forth in Article 5(f) and 5(h)(i) and (ii), or (y) such interest represents less than one percent (1%) of any outstanding class of securities that are publicly traded on any generally recognized stock exchange or over-the-counter market.
>
> (b) No Owner shall, directly or indirectly, lend money to or become a surety or guarantor for any Member other than a Member in which it owns an interest, any Player of any Member other than a Member in which it owns an interest, any Referee, the Commissioner or any other employee of the Association, except that Owners that engage in commercial lending as a principal business activity may enter into such lending, surety, or guarantee arrangements with such other Members or persons if (i) such arrangements are disclosed in detail to the Board of Governors and approved by three-fourths (3/4) vote of all Governors, or (ii) such Owners do not have effective control of a Member, the lending, surety, or guarantee arrangements are between the Owner and a Player, Referee, or employee of the Association, and such arrangements are on terms customarily offered to similarly situated individuals not affiliated with the Association.

[3] In the NBA, teams are not called as such, but rather franchise.

(c) Neither the Commissioner nor any Referee nor any other employee of the Association shall, directly or indirectly, hold stock or have a financial interest in any Owner or lend money to or become a surety or guarantor for any Owner.

(d) No Owner, or director, officer, manager, coach, employee, agent or representative of an Owner, shall hold any direct or indirect financial interest in, any position with, or directly or indirectly exercise any management authority over, any other professional basketball association or league or any member or team thereof, unless the facts in connection with such financial interest, position, or management authority are disclosed in detail to the Board of Governors and approved by a three-fourths (3/4) vote of all Governors; provided, however, that the foregoing prohibition shall not preclude any such financial interest that represents less than one percent (1%) of any outstanding class of securities that are publicly traded on any generally recognized stock exchange or over-the-counter market. This Article 3(d) does not apply to financial interests in, any executive position with, or any management authority over, a professional basketball team in the NBA G League. (NBA, 2019, pp. 6-8)

The provision is clear and simple, nobody who is involved in one franchise may take part in another one. This is a general provision that affects not only ownership but also every other possible relationship. The naming of the article is quite relevant because it presents the rules to avoid a conflict of interest, which in this case presents itself as avoiding having interests in more than one club. The underlying idea is the same as in football: having an interest in more than two franchises can harm the integrity of the game.

1.2. Euroleague

The Euroleague competition is also a tournament that is organized independently from the International Federations, as its organizers are European clubs from different countries. The main set of rules is established in the Euroleague By-Laws. The rules set out two different procedures: firstly, Club Licensing rules and secondly, competition regulations (Euroleague, 2022). In the first set of rules regarding licensing, no provision is included, nonetheless one appendix is relevant for the purposes of this investigation: Appendix V: Declaration of Sound Legal Position. This declaration establishes the following:

- The club, either directly or indirectly:
a) does not hold or deal in the securities or shares of any other club participating in the same Euroleague Basketball competition, or
b) is not a member of any other club participating in the same Euroleague Basketball competition, or
c) is not involved in any role whatsoever in the management, administration and/or sporting activity of any other club participating in the same Euroleague Basketball competition, or
d) does not have any power whatsoever in the management, administration and/or sporting activity of any other club participating in the same Euroleague Basketball competition.
- No person involved in any role whatsoever in the management, administration and/or sporting activity of the club is or may at the same time, either directly or indirectly, be involved in any capacity whatsoever in the management, administration and/or sporting activity of another club participating in the same Euroleague Basketball competition. In addition, no person involved in the management of the club may either directly or indirectly, hold or deal in the securities or shares of any other club participating in the same Euroleague Basketball competition.
- No person directly or indirectly by themselves or involved in any company representing players and/or coaches may either hold or deal in the securities or shares of the club or have any power whatsoever in the management, administration and/or sporting activity of the club. (Euroleague, 2022, p. 113).

The declaration is aimed at guaranteeing the independence of the club as a structure. In no way does it refer to the owners of the club. As it can be seen the rule aims to prohibit that the club itself is the owner or has an interest in another club. It doesn't in any way refer to the owners of a club having an interest in more than one. This means that Company A can be the owner of Team B and Team C, but Team B cannot be the owner of Team C. This prohibition is also extended to club employees and staff members. Hence, we can conclude that the Euroleague does not ban *per se* Multi-Club Ownership, but it prohibits the sharing of staff members.

2. Rugby

The international federation governing the sport of rugby is called World Rugby. As well as in football and basketball MCO presents itself as a great opportunity in the long term for teams in this sport too. Hence, the Regulations of World Rugby have directly addressed the issue. The general rule as provided in Article 14 is:

> No individual, body corporate, partnership, trust or any other entity ("Entity") may directly or indirectly own or control more than one Club except with the prior written consent of the Union concerned, or where Clubs from different Unions are involved, the written consent of the Unions concerned and World Rugby. (World Rugby, n.d)

The first reading of this article provides that an individual may own two clubs, only if he is allowed to by the international federation. As discussed by Besley-Tyrrell (2023) "these provisions show that both World Rugby […] facilitate multi-club ownership". Nonetheless, point 5 of the same article provides that "This Regulation 14 shall be interpreted broadly to give effect to the underlying intention that no Entity or group of Entities, acting alone or in concert, shall control, or be in a position to control, either directly or indirectly, more than one Club.". Considering the above, it seems that even though the international federation is allowed to accept one owner to have multiple clubs, it must not be allowed to do so. As spotted by Besley-Tyrrell (2023), the inconsistency of these regulations can lead to two main issues in the long run: the first one is that the regulations do not establish a criterion on when will this authorization be granted, and the second one is that there will be a lack of clarity of the international federation in awarding this authorization.

3. Formula One

Formula One is a competition privately organized and sanctioned by the Federation International de Automobilisme (FIA). The current competition has had two teams owned by the Red Bull group: Red Bull Racing and Scuderia Alpha Tauri. It is common to see that both teams take their actions, decisions, and strategies together. The question is: to what extent is this valid?

According to the FIA Formula One Sporting Regulations there is no express prohibition regarding the same owner of two or more teams. The decision to admit or not a team is exclusive of the FIA, as provided in Article 8.5 of the Sporting Regulations (2022). In addition, this same article does not contain any form of prohibition to having the same owner of two teams, whereas it does prohibit in point 3 that an engine manufacturer can only supply them to a limit of three teams. Considering that in recent years Formula One regulations have started to restrict certain team activities, such as a budget cap, or the time available to try the car in the wind tunnel having more than one team can result in a clear competitive advantage of one team in favor of the rest of the competition.

In conclusion, it can be easily appreciated that there is no fear from the sporting authorities that there could harm to the integrity of the competition. It is totally up to the FIA to decide what is the cap on the number of teams an owner may introduce in the competition.

VI. The status quo. The existing regulations on MCO in football.

Even though MCO is a trend that is booming currently, the regulatory framework for it has been shaped throughout the past decades. Nonetheless, no uniformity nor homologated regulations exist. The current regulatory framework is shaped by the rules coming from the football confederations and, in some cases by the national federations. Back in 2018, FIFA came up with a Global Club Football Report where it already analyzed the existing regulations on MCO: "Multiple ownership is a slightly more regulated phenomenon (33% of the countries), particularly in the CONMEBOL and UEFA regions (50% of their respective MA)" (FIFA Professional Football Department, 2018, p.26). As a result, "MCO is a transnational phenomenon with no clear integrated or uniform regulatory framework, and rather, a fragmented landscape" (Lenarduzzi, 2021b) instead there is an existing disparity of rules in the topic (Sternheimer & Laribi, 2020).

FIFA has no specific rule on MCO. In fact, it does not have any sort of specific and developed regulations on clubs, there is no such thing as an RSTP for clubs. The underlying idea for not doing this is that clubs are not members of FIFA, but of their respective National Association (Pastore, 2018). The sole regulation is granted in Article 20.2 of the FIFA Statutes:

> Every member association shall ensure that its affiliated clubs can take all decisions on any matters regarding membership independently of any external body. This obligation applies regardless of an affiliated club's corporate structure. In any case, the member association shall ensure that neither a natural nor a legal person (including holding companies and subsidiaries) exercises control in any manner whatsoever (in particular through a majority shareholding, a majority of voting rights, a majority of seats on the board of directors or any other form of economic dependence or control, etc.) over more than one club whenever the integrity of any match or competition could be jeopardised. (FIFA, 2022)

In 2014 the enforceability of this article was debated at CAS, in the award 2014/A/3513. The Mexican Club de Fútbol Atlante took Mexican Football Federation (hereinafter FMF) and Club Atlas FC to the CAS following the decision of the Liga MX of approving the sale of Atlas to a new owner. The club first appealed the decision to the FMF who dismissed it. The issue was that the Liga MX has approved a document named "*Decalogo*" that prohibited MCO from 2018 onwards. Once the offer from Azteca TV for Atlas was presented the Liga MX Board decided to modify the *Decálogo* to allow investors to buy a second club. It was then that Atlante appealed this decision on the basis that no possible change could be allowed halfway through the season; that no majority to grant the exception to that rule had been reached and that the rules on MCO from FIFA and the *Decálogo* had been breached. For the purpose of this analysis, only the third issue will be analyzed.

At CAS Atlante held that FIFA regulations, particularly Article 18.2 [now Article 20.2] are directly enforceable due to the fact that both: National Federation and League regulations establish that FIFA provisions are to be followed at all times, a mechanism of gap-filling: in that which is not regulated FIFA regulations apply. However, this argument did not convince the Panel as it understood that this provision could not be of direct application. In the view of the Panel:

> It is true that the FMF Statutes and Regulations do not directly regulate the issue of multiple ownership. However, in the Panel's view, a gap to be filled under Article 49.17 of the FMF Statutes presupposes an *inadvertent* lack of regulations on a given issue. If, by contrast, the FMF consciously decided against regulating a particular issue at all, it would hardly make sense to incorporate any FIFA regulations on that issue. As regards multiple ownership, all parties acknowledged that multiple ownership has a long tradition in Mexico. To date, this has not led to any FIFA intervention, as confirmed implicitly by Mr. Jaberg of FIFA, who testified that there are no precedents at all in that field. Given this tradition of multiple ownership in Mexico, and the fact that that FIFA does not seem to be concerned about it, it is hardly surprising that the FMF Statutes

> and Regulations do not follow the example of FIFA (and other sports governing bodies) to outlaw or at least restrict multiple ownership. Rather, it seems that this was a conscious decision reflecting the reality in Mexican football. In light of that situation, the Panel is not prepared to accept that Article 49.17 of the FMF Statutes is supposed to incorporate the FIFA regulations on multiple ownership. (Court of Arbitration for Sport, 2014)

Considering all of the above, and according to Article 23. g) of the FIFA Statutes it lies within the responsibility of the confederations to guarantee the integrity of their competitions, and the initial approach towards MCO is that they were a risk for the integrity of competitions (Dumond, Hafner & Facchinetti, 2020), it is more than necessary to approach the regulations on MCO reviewing every one of the regulations established by the six FIFA confederations (Pastore, 2018). The way confederations have adopted the regulation on MCO is through different types of regulations: either applying specific regulations on MCO to all the Member Associations or through the regulations of the competitions they are organizing. (Lenarduzzi, 2021b).

1. Europe – UEFA.

The FIFA Club Report of 2018 pointed out that 50% of the Member Associations of UEFA territory already had a rule on multiple club ownership (FIFA Professional Football Department, 2018). Most recently, UEFA has increased that statistic up to two-thirds (UEFA Financial Sustainability & Research Division/UEFA Intelligence Centre, 2023). Furthermore, UEFA itself has spotted that "82 top-division clubs – 11% of the total – have a cross-investment relationship with one or more other clubs" (UEFA Financial Sustainability & Research Division/UEFA Intelligence Centre, 2023, p. 206).

UEFA has its regulation on MCO set as part of the competition's regulations. This means that every year those clubs who classify to participate in UEFA continental competitions must comply with the requirements to be granted access to the competition. The rule is the same for the three UEFA continental competitions: the Champions League, Europa League, and Conference League, and provides as follows:

> Article 5. Integrity of the competition/multi-club ownership.
> 5.01. To ensure the integrity of the UEFA club competitions (i.e. UEFA Champions League, UEFA Europa League and UEFA Europa Conference League), the following criteria apply:
>
> a. No club participating in a UEFA club competition may, either directly or indirectly:
>   i. hold or deal in the securities or shares of any other club participating in a UEFA club competition;
>   ii. be a member of any other club participating in a UEFA club competition;
>   iii. be involved in any capacity whatsoever in the management, administration and/or sporting performance of any other club participating in a UEFA club competition; or
>   iv. have any power whatsoever in the management, administration and/or sporting performance of any other club participating in a UEFA club competition.
> b. No one may simultaneously be involved, either directly or indirectly, in any capacity whatsoever in the management, administration and/or sporting performance of more than one club participating in a UEFA club competition.
> c. No individual or legal entity may have control or influence over more than one club participating in a UEFA club competition, such control or influence being defined in this context as:
>   i. holding a majority of the shareholders' voting rights;
>   ii. having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of the club;
>   iii. being a shareholder and alone controlling a majority of the shareholders' voting rights pursuant to an agreement entered into with other shareholders of the club; or
>   iv. being able to exercise by any means a decisive influence in the decision-making of the club.

5.02. If two or more clubs fail to meet the criteria aimed at ensuring the integrity of the competition, only one of them may be admitted to a UEFA club competition, in accordance with the following criteria (applicable in descending order):

a. the club which qualifies on sporting merit for the most prestigious UEFA club competition (i.e., in descending order: UEFA Champions League, UEFA Europa League or UEFA Europa Conference League);
b. the club which was ranked highest in the domestic championship giving access to the relevant UEFA club competition;
c. the club whose association is ranked highest in the access list (see Annex A).

5.03. Clubs that are not admitted are replaced in accordance with Paragraph 4.09.

5.04. This article is not applicable if any of the cases listed under Paragraph 5.01 happens between a club directly qualified to the UEFA Champions League group stage and one qualified for any stage of the UEFA Europa Conference League. (UEFA, 2022)

The rule of UEFA, as Pastore defined it: "only prohibits the control of multiple clubs, but not the acquisition of minority stakes in them" (2018, p.58). Nonetheless, it must be pointed out that this rule was created urgently in the late 90s and only minor changes have been introduced since then. For this reason, to understand the causes and the development of the UEFA MCO rules, two cases must be examined.

In addition to the Competition Regulations, UEFA has a licensing process, named UEFA Club Licensing and Financial Sustainability Regulations. This set of rules requires that every licensee applicant discloses pursuant to Article 62.2.d) and e) "d. any party that has 10% or greater direct or indirect ownership of the licence applicant, or 10% or greater voting rights; e. any direct or indirect controlling entity of the licence applicant;" (UEFA, 2022b, p.35) and pursuant to Article 63 the "Ultimate controlling party, ultimate beneficiary and party with significant influence" (Id., p.36). This means that clubs are obliged to disclose who is their owner. With this information, as well as the registration to competition, UEFA can analyze and study if a club complies with the regulation.

1.1.The ENIC Case

The first big case on MCO which was the trigger to the UEFA regulations was the case that involved clubs bought by the English National Investment Company (ENIC). During the 90s the British company decided to invest in several European clubs: SK Slavia Prague (Czech Republic), AEK Athens (Greece), Vicenza Calcio (Italy), Glasgow Rangers (Scotland), FC Basel (Switzerland), and Tottenham Hotspur (England). Three of these clubs reached the Quarter Finals of the UEFA Cup Winners' Cup competition in 1998. During the draws, they weren't drawn against each other, and only Vicenza Calcio reached the semifinals, but a first alert as to how could two clubs owned by the same person was raised.

Ahead of the following season, UEFA decided to implement the rule prohibiting MCO to preserve the integrity of the game (Pastore, 2018). The rule had a very similar wording to the currently existing one. Two of ENIC's clubs qualified for the UEFA Cup Winners' Cup: AEK Athens and Slavia Prague but the prior one was excluded from the competition on the basis that Slavia Prague had already been accepted and the rule prohibited the two clubs to participate. Both clubs appealed the decision to the Court of Arbitration for Sport, requesting an interim relief injunction demanding that both clubs be admitted to the competition, which was granted.

The rule was established in the following way:

A. General Principle

> It is of fundamental importance that the sporting integrity of the UEFA club competitions be protected. To achieve this aim, UEFA reserves the right to intervene and to take appropriate action in any situation in which it transpires that the same individual or legal entity is in a position to influence the management, administration and/or sporting performance of more than one team participating in the same UEFA club competition.
>
> B. Criteria
> With regard to admission to the UEFA club competitions, the following criteria are applicable in addition to the respective competition regulations: 1. No club participating in a UEFA club competition may, either directly or indirectly: (a) hold or deal in the securities or shares of any other club, or (b) be a member of any other club, or (c) be involved in any capacity whatsoever in the management, administration and/or sporting performance of any other club, or (d) have any power whatsoever in the management, administration and/or sporting performance of any other club participating in the same UEFA club competition. 2. No person may at the same time, either directly or indirectly, be involved in any capacity whatsoever in the management, administration and/or sporting performance of more than one club participating in the same UEFA club competition. 3. In the case of two or more clubs which are under common control, only one may participate in the same UEFA club competition. In this connection, an individual or legal entity has control of a club where he/she/it: (a) holds a majority of the shareholders' voting rights, or (b) has the right to appoint or remove a majority of the members of the administrative, management or supervisory body, or (c) is a shareholder and alone controls a majority of the shareholders' voting rights pursuant to an agreement entered into with other shareholders of the club in question. 4. The Committee for the UEFA Club Competitions will take a final decision with regard to the admission of clubs to these competitions. It furthermore reserves the right to act vis-à-vis clubs which cease to meet the above criteria in the course of an ongoing competition. (As cited in Dumond, Hafner & Facchinetti, 2020, p.80-81)

In brief, the clubs' position was that the rule was contrary to the UEFA Statutes because it created two types of members; and contrary to the competition law regulations of the European Union and Switzerland, as it distorted the market limiting the ability of investors to access the market.

The Panel in their decision-making process made a profound analysis of every request held by the clubs. It first addressed the purpose of the rule: the integrity of the game. In the Panel's view:

> integrity, in football, is crucially related to the authenticity of results, and has a critical core which is that, in the public's perception, both single matches and entire championships must be a true test of the best possible athletic, technical, coaching and management skills of the opposing sides. Due to the high social significance of football in Europe, it is not enough that competing athletes, coaches or managers are in fact honest; the public must perceive that they try their best to win and, in particular, that clubs make management or coaching decisions based on the single objective of their club winning against any other club. This particular requirement is inherent in the nature of sports and, with specific regard to football, is enhanced by the notorious circumstance that European football clubs represent considerably more in emotional terms to fans – the ultimate consumers – than any other form of leisure or of business. (CAS, 1999, p.15)

This definition by the Panel alights several key elements to consider when studying issues regarding integrity, and therefore MCO. Firstly, public perception is the most important element without it there will be no interest in the disputed competition. Secondly, the uncertainty of results is vital for sports. And thirdly, the ultimate goal is winning, and clubs must put all their efforts into doing so. The Panel further analyses certain issues regarding MCO as is the sharing of staff or transferring of players. The Panel establishes that all these issues can harness the public perception of the integrity of the sport and therefore the establishment of rules is the response to the raised concern. Then the Panel moves to analyze if the proposed rules are proportionate and compliant with the law of the European Union and Switzerland. In brief, because this is not the object of this investigation, the Panel understands that the proposed rule is compliant will all the mentioned regulations. Nonetheless, the Panel rules that UEFA erred in the decision-making process. When UEFA established the new rule, it was a modification of the competition rules already passed and sent to the clubs. Therefore, there was a legitimate expectation of the clubs that they were compliant with the rules, and it was at a later moment that this more restrictive rule was enforced. Therefore, it produced a negative effect on the affected parties that would be unfair.

Hence, the rule was confirmed but it could only be effective from the next season not from the one UEFA wanted to enforce it. The aftermath of this case is still alive. The rule keeps its total essence and UEFA has only modified it to insert the concept of decisive influence, which will be discussed in the next case.

The company then decided to present a claim against the rule to the European Commission, since it considered it a rule that restricted the market. The response was that the rule was legitimate: UEFA had established a rule in accordance with the pursued legitimate aim of preserving the integrity of the competition. It must also be noted that "Although the ENIC decision predates the landmark decision in terms of EU and competition, Meca Medina,18 it has been argued since that the same conclusion would be reached "on the basis of the Wouters criteria applied in Meca Medina." (Demeulemeester, 2020, p.88).

1.2.The Red Bull Case

The insights of the Red Bull conglomerate have been addressed *ad supra*. The fact that must be noted is that in the 2016/2017 both Rassenball Leipzig and FC RB Salzburg managed to qualify for the next season's Champions League. Following the obtention of the continental license, both clubs applied to participate in the UEFA Champions League competition. It was in that moment that an investigation by the Club Financial Control Body was opened. At the investigatory phase, it was concluded by the chamber that both clubs could not participate in the competition at the same time because Red Bull had decisive influence over both clubs. Several points were raised to reach this conclusion:

> (a) with regard to FCS, the CFCB Chief Investigator states that Red Bull has the ability to control access to the ordinary membership of the General Assembly of the association FC Red Bull Salzburg e.V. which wholly owns FCS (the "FCS Association"), that FCS garners an unusually high level of income from Red Bull via sponsorship agreements and that FCS rents its stadium (and offices) from a subsidiary of Red Bull;
> (b) with regard to RBL, the CFCB Chief Investigator states that Red Bull has the ability to exercise decisive influence over the association RasenBallsport Leipzig e.V. which holds the majority of the voting rights in RBL, that RBL garners an unusually high level of income from Red Bull via sponsorship agreements and that considerable loan financing is given to RBL by Red Bull on favourable terms; and
> (c) with regard to the relationship between the Clubs, the CFCB Chief Investigator draws attention to the formal cooperation agreement entered into by the Clubs, the unusually high level of player loans/transfers which have taken place between the Clubs in past seasons, the past involvement of certain individuals who are allegedly connected to Red Bull in the operation of both Clubs and the common visual identity/similar branding of the Clubs, as well as noting certain public statements regarding the Clubs made by the CEO of Red Bull. (UEFA Club Financial Control Body, 2017, p.3)

This was the decision by the Investigatory Chamber. When the case arrived at the deciding body, the Adjudicatory Body, both clubs had taken quick and urgent measures to avoid being kicked out. The Salzburg team expelled every individual who held a position in Red Bull and in the Leipzig team; the loan agreement between Red Bull and the Leipzig team and the cooperation agreement got terminated. In addition, Red Bull was expelled from the Salzburg team Assembly and the sponsorship agreement between these two was also modified. All these changes allowed the Panel to understand that there was no longer a decisive influence of Red Bull on both clubs. Thus, both clubs were allowed to compete that season in the Champions League competition.

This case was the first one since the ENIC case to test the UEFA rules on MCO, especially concerning what it means to have a decisive influence. In the decision, the Panel solely addresses that the concept is influenced by the European Union regulations on mergers, where no shareholding is established to determine what constitutes decisive influence. Rather than the individual circumstances of each case, inter alia, a person may not be the majority shareholder but hold that position as a result of deals with minor shareholders. Several authors (Pastore, 2018; Lenarduzzi, 2021b) point to the fact that this should have been the optimum chance for UEFA to draw the framework on what it understands decisive influence is. Allowing both clubs to be competing in the same competition and not taking further action has allowed us to understand that "UEFA has shown a certain degree of flexibility and pragmatism in applying its integrity rule." (Demeulemeester, 2020, p. 88) the threshold to exclude a club based on the decisive influence is a high one (*Ibid.*).

1.3.National regulations

Several countries have also implemented rules on MCO to protect the integrity of their internal and national wise competitions.

In the case of Spain, the Royal Decree 1251/1999, prohibits an individual, person, or entity, to hold more than 5% of the ownership of two clubs competing in the same division. In the case of England, the Premier League has defined what having control in a club is: being the owner of at least the 30% and it is prohibited to own more than 10% in two clubs (Premier League, 2022). These two countries are set as examples by authors (Geey et al, nd.) of places where the national bodies have set higher barriers to MCO than the one set by UEFA.

Quite recently Italy has implemented a new set of rules on club ownership. It was in September 2021 that the Federazione Italiana Guoco Calcio (FIGC) decided to ban MCO (Galardini, 2022). This happened as a result of Salernitana's promotion to Serie A because its owner, Claudio Lotito, is also the owner of SS Lazio. Another owner of more than one club in the Italian competitions is Mr. Aurelio de Laurentiis who owns SSC Napoli and SSC Bari. The content of the rule is that an individual or entity cannot own two clubs in Italy competing in the same division. The rule was implemented with retroactive effect (Lenarduzzi, 2021b), this meaning that when the owners bought the club they had a reasonable expectation to assume it was right in doing so, whereas from then on they are not allowed to do such a thing. The immediate consequence is forcing all these owners to "A forced sale as opposed to a willing sale distorts the market and what a willing buyer and willing seller would have otherwise settled on for a purchase price." (Lenarduzzi, 2021b).

Germany is a country whose legal framework for clubs must be analyzed as, per se, it is a model that investors will reject and feel unattracted (Rain, 2020) on the basis that it doesn't allow them to embrace full control of the club (De Dios Crespo, 2020). Indeed, Germany's model is known as the '50+1 rule' whereby supporters are the owners of the majority of the club and the remaining 49% can be traded. It is only in exceptional circumstances[4] that a company can opt to break this 50+1 rule and obtain majority ownership. This means that a person may not immediately own full control of a German club. Any investor would be reluctant to "invest substantial amounts of money without having the final say in how this money is utilized." (Rain, 2020, p.95). Moreover, specific provisions on MCO are established in a similar way to the Spanish and British regulations, as no

[4] For an entity to be able to obtain more than a 50% of the ownership it must prove that it has been an owner of the club for over 20 years. At the moment, only Bayer Leverkusen and Wolfsburg have managed to obtain the 50+1 exemption as Bayer and Volkswagen, respectively have been owners of the club for over the established period.

company is allowed to have more than 10% shares in two or more clubs. This means that it can own 5% of every single Bundesliga club and no problem would be raised.

2. South America – CONMEBOL

On the other side of the Atlantic Ocean, the South American confederation has also been an active player in the regulation of MCO. The FIFA report also points out that 50% of the CONMEBOL territory National Associations have a rule on MCO (FIFA Professional Football Department, 2018).

This confederation has set the regulations on their Statutes, as an obligation to Member Associations to establish as provided in article 7.l.iv: "Disposiciones que aseguren que ninguna persona física o jurídica controle más de un club"[5] (CONMEBOL, 2019). Furthermore, it also regulates the prohibition in the licensing regulations of the competitions. As well as UEFA, all the clubs that want to participate in CONMEBOL Competitions must be granted the license. In this case, the regulation is provided in Article J.03, which reads as follows:

> El solicitante de la licencia debe presentar una declaración jurídicamente válida que describa la estructura de propiedad y el mecanismo de control del club y que confirme que ninguna persona física o jurídica implicada en la gestión, administración y/o actuación deportiva del club directa o indirectamente:
> a) Posee o comercia con títulos o valores de ningún otro club que participa en la misma competición; o
> b) Posee la mayoría de los derechos de voto de los accionistas de cualquier otro club que participa en la misma competición; o
> c) Tiene derecho a designar o a cesar a una mayoría de los miembros de los órganos de administración, gestión o supervisión de cualquier otro club que participa en la misma competición; o
> d) Es accionista y controla una mayoría de los derechos de voto de los accionistas de cualquier otro club que participa en la misma competición de conformidad con un acuerdo firmado con otros accionistas del club del que se trate; o
> e) Es miembro de cualquier otro club que participa en la misma competición; o
> f) Está implicada en calidad alguna en la gestión, administración y/o actuación deportiva de cualquier otro club que participa en la misma competición; o
> g) Tiene cualquier tipo de poder la gestión, administración y/o actuación deportiva de cualquier otro club que participa en la misma competición.
> Esta declaración debe realizarla un signatario autorizado no más de tres meses antes del vencimiento del plazo de presentación al cedente de la licencia. [6](CONMEBOL, 2018, pp. 57-58)

[5] That can be translated as follows: Provisions to ensure that no individual or legal entity controls more than one club.

[6] That can be translated as follows: The license applicant must submit a legally valid statement describing the ownership structure and control mechanism of the club and confirming that no natural or legal person involved in the management, administration and/or sporting performance of the club directly or indirectly: (a) Owns or trades in securities of any other club participating in the same competition; or (b) Owns a majority of the voting rights of the shareholders of any other club participating in the same competition; or (c) Has the right to appoint or remove a majority of the members of the administrative, management or supervisory bodies of any club participating in the same competition; or (c) is entitled to appoint or remove a majority of the members of the administrative, management or supervisory bodies of any other club participating in the same competition; or (d) is a shareholder and controls a majority of the voting rights of the shareholders of any other club participating in the same competition pursuant to an agreement entered into with other shareholders of the club concerned; or (e) Is a member of any other club participating in the same competition; or (f) Is involved in any capacity whatsoever in the management, administration and/or sporting performance of any other club participating in the same competition; or (g) Has any power of attorney over the management, administration and/or sporting performance of any other club participating in the same competition. This declaration must be made by an authorized signatory not more than three months prior to the expiration of the deadline for submission to the licensor of the license.

The approach to MCO is the same as in UEFA, they are not looking forward to having two clubs belonging to the same person play against each other. Therefore, there is a total prohibition (Jiménez, 2020)

3. Asia – AFC

The Asian confederation does have some regulations on MCO. In fact, the FIFA report pointed out that 33% of the Member Associations have rules on MCO. This confederation has provided specific regulation on MCO through licensing regulations and the specific competition regulations. As a matter of fact, Article 9.12 of the AFC Entry Manual of AFC Club Competitions provides:

> 9.12. To ensure the integrity of an AFC Club Competition:
> 9.12.1. no participating club may, either directly or indirectly:
> 9.12.1.1. hold or deal in the securities or shares of any other participating club;
> 9.12.1.2. be a member of any other participating club;
> 9.12.1.3. be involved in any capacity whatsoever in the management, administration and/or sporting performance of any other participating club; or,
> 9.12.1.4. have any power whatsoever in the management, administration and/or sporting performance of any other participating club;
> 9.12.2. no one may simultaneously be involved, either directly or indirectly, in any capacity whatsoever in the management, administration and/or sporting performance of more than one (1) participating club;
> 9.12.3. no individual or legal entity may have control or influence over more than one (1) participating club, such control or influence being defined in this context as:
> 9.12.3.1. holding a majority of the shareholders' voting rights;
> 9.12.3.2. having the right to appoint or remove a majority of the members of the administrative, management, or supervisory body of the club;
> 9.12.3.3. being a shareholder and alone controlling a majority of the shareholders' voting rights pursuant to an agreement entered into with other shareholders of the club; or
> 9.12.3.4. being able to exercise by any means a decisive influence in the decision-making of a club. (AFC, 2021)

This first piece of rules from the AFC is the general framework to be applied in the AFC Club competitions. In addition, the AFC makes a double-check via the regulation on Club Licensing, which provides under Article 19-L01:

> 1. The Licence Applicant must submit a legally valid declaration outlining the ownership structure and Control mechanism of the club. Such declaration should ensure conformity with the conditions set out below.
> No natural or legal person involved in the management, administration and/or sporting performance of the club, either directly or indirectly:
> a) holds or deals in the securities or shares that allows such person to exercise Significant Influence in the activities of any other club participating in the same competition;
> b) holds a majority of the shareholders' voting rights of any other club participating in the same competition;
> c) has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of any other club participating in the same competition;
> d) is a shareholder and alone Controls a majority of the shareholders' voting rights of any other club participating in the same competition pursuant to an agreement entered into with other shareholders of the club in question;
> e) is a member of any other club participating in the same competition;
> f) is involved in any capacity whatsoever in the management, administration and/or sporting performance of any other club participating in the same competition; and

> g) has any power whatsoever over the management, administration and/or sporting performance of any other club participating in the same club competition.
> 2. These declarations must be executed by an authorised signatory no more than three (3) months prior to the corresponding deadline for its submission to the Licensor. (AFC, 2022)

This rule is the same as the CONMEBOL rule. Unlike the UEFA rule that leaves the concept of 'decisive influence' open to interpretation these rules present objective criteria to determine when a person is allowed to own two or more clubs. The core principle of this rule is to prevent any harm to the integrity of the sport (Mercer & Vasudevan, 2020) for this reason the AFC considers that a single person owning more than one club should be prohibited. In conclusion, the AFC presents a model of controlling MCO on a proactive basis, through the constant monitoring of clubs by the use of these legal tools (*Ibid.*).

3.1.National regulations

As already mentioned *ad supra*, Saudi Arabia has made a significant change in their approach towards football clubs, making them corporations, that are now owned by the Saudi sovereign fund. The Public Investment Fund is the owner of 75% of the stakes of Al Ittihad, Al Ahli, Al Nassr, and Al Hilal, a clear example of an MCO conglomerate with a national dimension. Three of these four clubs compete in the Saudi Professional League. It is yet to be seen if the AFC takes any measure to prevent the three top division clubs to compete in the continental championships if they qualify.

4. North America - CONCACAF

In the North American football confederation, FIFA points out that only 19% of the member associations have rules on the topic (FIFA Professional Football Department, 2018). This confederation solely regulates MCO in Article 17.3 of the Statutes which provides:

> In any case, a Member Association shall ensure that no natural or legal person (including holding companies and subsidiaries) exercise third-party control over more than one Club or group whenever the integrity of any match or competition could be jeopardized. (CONCACAF, 2016, p.18)

4.1. National regulations

Even though CONMEBOL hasn't had a case as the ENIC case to shape its regulatory framework on MCO, several countries have been involved in MCO. The main case is Mexico, where one-third of the clubs are part of a domestic MCO (Lenarduzzi, 2021b). Mexico has become a country that tolerates and promotes MCO (Hernández Castro, 2019) and its national competition has several groups owning more than two clubs. These are Grupo Orlegui who own Santos Laguna and Atlas in México and Sporting de Gijón (Spain); Grupo Pachuca who own Pachuca, Leon, and Coyotes de Tlaxcala in México, and Everton (Chile), Atlético Atenas de san Carlos (Uruguay) and Real Oviedo (Spain); thirdly Grupo Caliente, who owns Xolos Tijuana, Dorados and Querétaro, all of them in México. Despite this prominent position of MCO in Mexico, there are several hints that Mexico could start to ban them in the near future.

Even the Major Soccer League (United States), whose governance model is totally different from the European model and could be itself considered an MCO, was faced with a serious MCO issue at its very beginning. The Anschutz Entertainment Group (AEG) was the owner of six clubs competing in the league: Chicago Fire, Colorado Rapids, DC United, Los Angeles Galaxy, New York Metro Stars, and San José Earthquakes (Roitman & Poli, 2020). In fact, in the MLS, as analyzed by CIES (2016), allow MCO.

5. Africa – CAF

The African football confederation is the confederation with the least number of countries that have some sort of regulation on MCO, with a total of 6 % according to FIFA (FIFA Professional Football Department, 2018). The confederation solely regulates MCO with a general provision prohibiting it in the CAF Statutes in Article 12.3:

> Every member association shall ensure that its affiliated clubs can take all decisions on any matters regarding membership independently of any external body. This obligation applies regardless of an affiliated club's corporate structure. In any case, the member association shall ensure that neither a natural nor a legal person (including holding companies and subsidiaries) exercises control in any manner whatsoever over more than one club whenever the integrity of any match or competition could be jeopardized. (CAF, 2021, p.7)

6. Oceania – OFC

Finally, the Oceania football confederation has 22% of its members who have already adopted rules on MCO (FIFA Professional Football Department, 2018). Nonetheless, despite this low number, the confederation has established rules to prohibit MCO. The confederation makes a similar approach to the one taken by the AFC: only establishing the general provision prohibiting MCO in the Statutes, provided in Article 15.3:

> In any case, the Member Association shall ensure that no natural or legal person (including holding companies and subsidiaries) exercise third-party control in any manner whatsoever (in particular through a majority shareholding, a majority of voting rights, a majority of seats on the board of directors or any other form of economic dependence or control etc.) over more than one (1) Club or group whenever the integrity of any match or competition could be jeopardised. (OFC, 2021)

VII. Conclusions. A proposal to FIFA. What may come.

The global trend of MCO is calling for an overhaul of the current existing regulatory framework. The main actor called to start the review process of the rule on MCO is FIFA, and they have accepted such an invitation. In fact, the Legal and Compliance Director of FIFA, Mr. García Silvero (2023), recently called attention during a conference to the fact that FIFA would start to study how MCOs could be regulated. This was later followed by UEFA's President Aleksander Ceferin (The Overlap, 2023) announcing that the European confederation would also start looking at their rules with the likelihood of changing the whole objective of the rules. Considering this, it seems wise and relevant to analyze how FIFA could create its global regulatory framework for MCO from scratch. Some of the ideas could also be implemented at confederation level.

1. The purpose and objectives of the rule

When creating a rule, the first element which must be addressed is the purpose and the objectives the legislator is looking forward to with that rule. If we look at the existing rules on MCO the purpose of the rule maker is no other than totally prohibiting MCO because there is an issue that had to be addressed: the risk of damaging the integrity of the game. Nonetheless, the current rules have not stopped the proliferation of MCO, rather, it has slowed it down, but with the existing trend, it seems more than likely MCO conglomerates are yet to appear. This would mean that the existing regulations are unfit and outdated. In addition, a first thought could be that with the same mindset of the existing regulations, the next step could be the total ban on MCO. However, this is a possibility that seems far from being real as there doesn't seem to be an interest in getting rid of the investor's interest in football, and in legal terms could be contrary to European competition law as a form of restricting competition and free market freedoms. FIFA must not prohibit nor totally MCO in football. It wouldn't be wise to do so, as no industry in the world would accept rejecting external investors injecting money into the business. It is clear that the new approach towards MCO envisions a major acceptance of this tool. Integrity is still the major concern but banning is not the solution, rather regulating it with the utmost guarantees of keeping a fair game seems the solution.

With this in mind and considering FIFA's statutory objectives, inter alia, "to draw up regulations and provisions governing the game of football and related matters and to ensure their enforcements" (2022, p. 10) and "to promote integrity, ethics and fair play with a view to preventing all methods or practices, such as corruption, doping or match manipulation, which might jeopardize the integrity of matches, competitions, players, officials and member associations or give rise to abuse of association football" (FIFA, 2022, p. 11). The purpose of this proposed rule must be to set a common and global charter with a homogeneous approach of MCOs that ensures a standard treatment to MCO where the major concerns are no longer conceived as such.

Alongside the purpose several objectives must be established which will allow to identify the points that the rules must address, and on the long run review if the effects of the rules have been consistent with the objectives. Furthermore, when establishing the rules on MCO the objectives must also be established to address those issues that are creating serious concerns in the football world about MCO. This means that some of the objectives could be on the following lines:

- To ensure that clubs' performance is no threat to the integrity of the game.
- To guarantee that the transfer market conditions are preserved, no parallel markets are created, and no actor is allowed to take actions that distort the transfer market.
- To ensure that MCO has a regulatory framework to provide certainty and fairness in football.

2. The link between FIFA and clubs

Another important component to consider when pursuing to establish a rule on MCO is the link that clubs have with FIFA. It is something of common knowledge that clubs are not members of FIFA, but rather they are members of the national federation. Therefore, they are only indirectly members of FIFA. This is certainly relevant because FIFA regulations, which at the end of the day solely are rules of private law issued by a private body must be accepted by each other party - i.e. players or clubs- for them to become binding. It is very important, for the purposes of enforcement of the rules to have clear how are clubs going to be bound by these regulations.

According to the FIFA Professional Football Department (2019), there are over 3,903 professional football clubs and 128,983 professional players worldwide. If FIFA would like to establish a rule, it would be necessary for the 3,903 clubs to obey it. Players are bound to FIFA because their license obliges them to adhere to FIFA regulations. In the case of clubs, rules can be imposed in a certainly similar way: because they are members of the national federation, their obligation must be to follow, obey and apply the rules of the international federation. Moreover, there are other forms of creating a link between FIFA and the clubs, it all depends on the scope FIFA wants to give: if it wants everybody to obey the rules or just a few. And this will be examined furtherly.

2.1. Establishing the same rule for every club

The best example of how FIFA can implement the same regulation for an insurmountable number of persons is the RSTP, where in Article 1 it is provided that the rules are to be applied to every player in organized football. This means that every player who wants to play in organized football must accept those rules. Therefore, an analogy can be made and if FIFA can implement a standard rule for players, why can't it do so with clubs?

Furthermore, FIFA is already in a sort of direct link with clubs if we consider the Transfer Matching System (TMS). Every club must register its international transfer of players through this platform. In the implementation of sporting sanctions FIFA can monitor the activity of clubs through this platform (Pastore, 2018). The use of this existing tool – the TMS – as a means to connect with clubs is beyond reasonable. Considering the recent FIFA Agents Regulations, FIFA is requesting agents to inform them with transparency through their platform all their details (FIFA, 2022c).

2.2. Establishing the rules for some clubs.

A second possibility is that FIFA decides that rules on MCO should only be of application to certain clubs, for example: only to clubs competing in the top two divisions of a country, or to the clubs competing in a certain competition. This later can be a feasible possibility considering FIFA has approved the new format for the FIFA Club World Cup starting in United States 2025 that will include 32 clubs from all over the world participating. Therefore, FIFA could use the competition rules or the licensing process to compete in such competition as a way to implement the rules on MCO, the very same system confederations have instrumented it over the past decades. For this reason, it is quite reasonable to expect that this second approach could be the one that FIFA decides to use if they finally decide to establish the rules on MCO ahead of the revamped Club World Cup.

3. Problems to consider when regulating MCO

Several affairs that are worth noting when considering that FIFA should regulate MCO. In fact, these are features that probably will be raised in the process of coming up with a package of rules on MCO.

The first problem that FIFA can encounter is for sure the most obvious and the one they encounter when implementing every set of rules: one size may not fit all the world. This means that the situation in one part of the world may not be the reality in another part and that the problems present in one place may not be the same as in another.

The second issue is something that has already been discussed ad supra, with regard to the legal structure of clubs. As mentioned earlier every club has its foundations as an entity with a legal personality that is granted by the national laws. By this I mean that, if FIFA wants an efficient and well-thought rule that can result in the application all over the world, it must consider that national laws also have a say. For example, the case of Spain, as seen ad supra, where it is strictly prohibited to own more than two clubs participating in the same competition. Therefore, there are certain elements that will be proposed in the following paragraphs that would need to be studied *ad casu* to avoid any contradictions which will make the rules inapplicable. As such, an International Federation, in this case, does not have the power nor will it be allowed to regulate the takeover of a club, or the conditions of the selling of a club but what it can do is regulate the access to official competitions.

Thirdly, the last issue to consider is the reluctance of investors and big groups to new regulation. The existing status quo is leaving a free way to tolerate the creation of MCO conglomerates. Launching a new regulation that sets a global standard can provide further certainty to the entire sector as the actors will know what rule applies everywhere, but if deemed too restrictive it can be a way to discourage investment and risk potential investments.

4. A proposal of rules

The following section is thought to be the final step considering all the above, whereby a series of rules are proposed that could feasibly be adopted by FIFA. In light of the above, there are five pillars to be considered, namely: i. Clear conception and definitions; ii. Tackling the integrity menace; iii. Avoiding hampering the transfer market; iv. Recognizing power to the fans; v. transparency and reporting.

4.1. Clear conception and definitions.

Trying to avoid items that have already been mentioned in prior paragraphs or sections, FIFA must establish a well thought and defined framework. This is to say that what constitutes an MCO conglomerate must be delineated in such a way that it leaves no margin for doubt. There are several ways to construct a definition for MCO. In Chapter IV, the established definition considered that an MCO exists when one person, or entity, is the owner of two or more clubs. Nonetheless, even this definition can be incomplete because ownership depends on the individual structure of the club. Therefore, the next question is what constitutes ownership, and this can be either quantified by establishing a minimum percentage or by establishing a definition where ownership is associated with the governance and running of the club, in such a way that owning a minor share in the ownership of a club does not, per se, create an MCO situation.

4.2. Tackling the integrity menace

It is shared by institutions – confederations and national associations – and experts that MCO is a threat to the integrity of the game. Therefore, the rules to be applied must address and counterfeit this threat. The ultimate goal must be to preserve and maintain, as CAS established in the ENIC case that the public perception of the unpredictability of the game is in no way harmed. For this reason, the measures proposed to touch on several points.

Firstly, regarding disciplinary the FIFA Disciplinary Code (2023) Article 25 provides that when establishing the concrete sanction, both aggravating and mitigating circumstances must be considered. The proposal goes in line with this because a match-fixing scandal where the guilty clubs are part of the same MCO conglomerate is considered an aggravating circumstance. This would discourage any attempts or intentions to manipulate matches.

Secondly, regarding the organization of competitions. It must be prevented that when owning two clubs that participate in the same competition they can collude and provoke a situation Italians tend to call *biscotto*. For this reason, the proposal is on the lines that in champions with a league structure, this is where teams play home and away and the team with the most points is crowned champion, if there are two or more teams owned by the same person in a league, these teams cannot play each other in the last five league fixtures. In championships where there is a league phase before a knockout round – for example, the UEFA Champions League – the teams owned by the same person will not be drawn in the same group. A first impression would be that this results in damaging the integrity of the draw, but competition organizers, for example, UEFA already apply a criterion that teams from the same country may not be drawn against each other in the group stage. This is made to prevent any possibility of arranging possible results that may benefit both teams and affect a third party, which would mean that the competition has been rigged.

4.3. Avoiding hampering the transfer market

The fact that several clubs create their network of players and start exchanging players with each other is an existing risk resulting from MCO. Consequently, measures to ensure the single player market and avoid creating multiple markets only accessible to the clubs that are part of an MCO which would create chaos in the football system.

FIFA has already implemented certain rules to control de transfer of players within the MCO conglomerates, such as the cap on loans. Following this idea, the next step could easily be to limit, in the same amount the number of transfers within clubs belonging to the same MCO. This would avoid distorting the market or an infinite number of player markets where players would be treated as players of a group constantly moving from one to the other. Nonetheless, this cap can also be a competitive advantage for MCO because as Laing and Pastore (2020) mention: “By restricting the ability of clubs to effect temporary transfers, clubs that can benefit from the synergies promoted by MCOs will have a competitive advantage in the recruitment and development of the players.” (p. 133)

Furthermore, the distortion of the market could also be created in terms of pricing, as MCO will exchange the price of players for a lower value than the market price. It is not FIFA’s job to determine what is the value of a player or if the player is sold for a lower price than the market one. It is in the interest of FIFA, especially for the purposes of the training rewards, that transfers respond to a real value. To discourage the transfer of players within the owned clubs further measures could be taken, for example, when a player is transferred within the clubs of a conglomerate, if one of the clubs in that same conglomerate (party to the transaction or not) is entitled to receive training rewards, that should not be allowed to such.

4.4. Recognizing power to the fans.

Football’s identity and core values cannot be understood without the support of the fans and supporters. Considering also that the footballing industry is being driven towards gaining more value through the enhancement of the so-called fan experience, it is more than necessary to implement mechanisms by means of which fans can have a say in the running of the club. In addition, precisely this would help counter those alarms raised that MCO doesn’t preserve the distinctiveness of a club and the connection with its fans. Establishing a golden vote for fans or a list of topics where fans can have a say isn't the solution because that could be regulated by national laws. Nonetheless, FIFA could require that clubs implement a formula to make the voice of the fans heard.

4.5. Transparency and reporting.

A regulation on clubs in the 21st Century must embrace transparency as a key element. This is especially relevant when analyzing MCO because for the sake of integrity disclosing information regarding who are the owners of the club, who takes part in the decision-making process of the club, and who has an interest in a club. For these reasons, in the proposed regulations for MCO two rules must be considered in this regard.

Firstly, when a club is bought, it must report to FIFA the identity of the buyers and especially if the buyer is already the owner of another club. This duty to report is consistent with the idea that investors should be clearly spotted, and fans should know whom the ultimate owner is controlling the fate of their clubs. FIFA can urge a club to disclose all its internal information. Secondly, a prohibition regarding employees must be established insofar as an employee of a club may not be directly involved in the running, governance, or administration of another club.

5. Closing remarks

All in all, football has become an industry that is competing in the next level globally. The emergence of new trends which are linked to sport but that do not fall under the scope of traditional sports, as well as the development of the global entertainment industry have encouraged the traditional sports, particularly football as the most followed sport, to delve into their strength. For this reason, MCO is a tool that is seen as the creator and a source of competitive advantages for clubs.

Mr. Isaac Newton's first law of motion says that an object at rest will remain at rest, unless acted on by an unbalanced force; and an object in motion will continue with constant speed and direction unless acted on by unbalance force. If we extrapolate this idea, we can agree that right now MCO is a fast developing and moving object, and the evidence of that is the fast rate at which clubs are being bought to be part of a conglomerate. In order to stop it, the football governing bodies would need to do so with a greater force to the one currently moving it, which is mostly impossible. On the other hand, if a regulation is established that allows the momentum of MCOs to be under control of the governing bodies then it will be beneficial for the football community. For this to happen the scope of the mindset must consider that it is very hard to stop the impossible, meaning MCOs, and that there is a strong necessity to preserve the roots and values of football. It is said that law normally goes slower than society, for this reason many times when a law gets enacted it no longer is of use. Therefore, a well-thought, comfortable and consistent regulation that provides certainty to the footballing community will prove to be the necessary tool for the future of the footballing industry. Only in that way will the governing bodies have the control over the big debate on the future of football.

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